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Antonio J. Colmenarez

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

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EXAMINER

CHAN, WING F

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/822,121
Filing Date: March 30, 2001
Appellant(s): COLMENAREZ ET AL.

Anne E. Barschall
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/15/04.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is substantially correct. The changes are as follows: whether claims 1-8, 10-24 are obvious over Potts in view of Baker or Malkin under 35 USC 103(a) - - section 8 of the Office action; and whether claims 9, 25 are obvious over Potts and Baker or Malkin and further in view of Chu under 35 USC 103(a) - - section 9 of the Office action.

Appellant's allegation that "section 9 of the office action would appear to be moot" is unfounded and misleading as the Board has not rendered any decisions.

(7) Grouping of Claims

The rejection of claims 1-25 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

5,686,957	BAKER	11-1997
5,778,082	CHU et al	7-1998
6,704,048	MALKIN et al	3-2004
WO 99/60788	POTTS et al	11/1999

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

'8. Claims 1-8, 10-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Potts et al (WO 99/60788 hereinafter Potts) in view of Baker or Malkin et al (US PAT. NO. 6,704,048 filed 8/27/98, hereinafter Malkin).

Potts teaches a video conference system for locating the speaker comprising an image pickup device (14) for generating image signals representative of an image, a audio pickup device (12) for generating audio signals representative of an sound from an audio source, a processing means (audio source locator 28 which processes audio and video signals to locating the speaker) for processing the image signals and audio

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signals to determine a direction of the audio source relative to a reference point. Potts also teaches that at least two microphones can be used as an array for generating audio signals representative of a sound from an audio source. Note entire publication¹.

Potts discloses a video conferencing system substantially as claimed, as acknowledged and admitted on page 7 second and third full paragraph of the remarks filed 2/26/04, except for the camera not being motionless during operation, e.g. Potts's camera does not have electronic pan, tilt, zoom (EPTZ).

However, it is old and well known in the art to replace mechanical pan, tilt, zoom cameras with camera that have electronic pan, tilt, zoom (EPTZ) to eliminate manual operation of the camera, improve reliability and reduce cost of the system, for example see Baker col. 7 lines 26-38; Malkin col. 1 lines 16-28, col. 2 line 16 to col. 3 line 6. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Potts' camera to be a camera that have electronic pan, tilt, zoom (EPTZ) to eliminate manual operation of the camera, improve reliability and reduce cost of the system.

9. Claims 9, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Potts as modified by Baker or Malkin, as applied to claims 1-8, 10-24 above, and further in view of Chu et al (US PAT. NO. 5,778,082 hereinafter Chu).

Potts as modified by Baker or Malkin differs from the claimed invention in not disclosing the use of an array of two microphones. However, it is notoriously old and

¹ The is from the 1/30/03 Office action rejecting the claims using Potts.

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well known in the art to use spatially separated microphones to obtain the direction or location of speech or other acoustic signals from a common sound source identifying acoustic received signals representative of the sequence of signals, and determining the direction of the source based upon the acoustic received signals, for example see Chu. Chu also discloses it has applications to videoconferencing where it may be desirable to automatically adjust a video camera, such as by aiming the camera in the direction of a person who has begun to speak, for example see Chu's abstract, col. 1 lines 5-19, col. 2 lines 3-8. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Potts as modified by Baker or Malkin to use an array of two microphones to obtain the direction or location of speech or other acoustic signals from a common sound source identifying acoustic received signals representative of the sequence of signals, and determining the direction of the source based upon the acoustic received signals to automatically adjust a video camera, since it would produce the same results with relatively less components (microphones) and less cost.'

(11) Response to Argument

Appellants' remark that the Potts reference is long and complex is duly noted, however such remarks are not persuasive. The Potts reference was provided appellants in the 1/21/03 IDS, and this reference by the EP office as evidenced by the search report (NPL document) submitted to the Office on 1/21/03. Clearly, appellants are more familiar and have read the entire publication as it was applied by the EP patent office, therefore to assert that reading the entire reference is a burden is absurd.

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The EP cited the abstract, page 11 to page 54, all figures which is similar to the Examiner's position that the entire publication is relevant. In order to fully understand the Potts reference one must start with the background, summary, e.g. pages 1-11, and then to understand how the system, device works one must read pages 14-34 for the video processing modules, page 34-48 for the audio modules, and page 49-54 for any other alternative embodiments, and pages 55-70 are the claims and the 25 pages of drawings. Therefore, the examiner is correct and proper in referring appellants to read the entire publication since the entire publication is relevant and important to provide a complete understanding of the Potts system. Therefore, contrary to appellants' erroneous allegation, the examiner has specify what parts of Potts are relevant in keeping with 37 CFR 1.104(c)(ii).

As to Malkin, as clearly set forth in the rejection (section 9 of the Final Office action) the examiner referred to Malkin col. 1 lines 16-28, col. 2 line 16 to col. 3 line 6. Therefore, contrary to appellants' erroneous allegation, the examiner has specify what parts of Malkin are relevant in keeping with 37 CFR 1.104(c)(ii).

Appellants' remarks that the Baker reference is withdrawn is misleading, erroneous and has mischaracterized and misconstrued the examiner's statements. As clearly stated in the 10/28/04 interview summary: "The after Final amendment overcame rejections using Baker as a primary reference only, paragraphs 5-7 in the Final Office action and also overcame the 112, 2nd rejection." Anyone reading this would clearly understand that the rejections in paragraphs 5-7 using Baker as the primary reference was withdrawn. Nowhere does it states that

Baker is withdrawn as a secondary reference. Therefore Baker is still a valid secondary reference and appellants' silence to Baker is view as a concession that Baker is valid and applicable.

Appellants' remarks that the rejections are improper for failing to point out elements are not persuasive. As stated in the 1-30/03 Office action, elements in Potts were pointed out, and since appellants were able to respond to the Office action in the 3/31/03 amendment by amending the claims to include a stationary camera clearly indicates that appellants have studied Potts and is aware of what Potts teaches. Since appellants have not previous raise any issue with the use of Potts throughout the prosecution history, it is view as a concession by appellants that Potts substantially teaches the claimed invention; and to raise the issue at appeal is moot.

The Potts reference: claim 1.

The examiner respectfully submits to the Board that paragraph 8 of the Final Office action does set forth a prima facie case of obviousness against the claimed invention.

The examiner respectfully submits that contrary to appellants' erroneous allegations (page 10 of the brief) no mischaracterization was made on the part of the examiner. As clearly stated in appellants' 2/26/04 amendment, page 7 second and third full paragraph of the remarks in which appellants attempted to overcome the 35 USC 112, first paragraph rejection by stating the "determination of direction dependent at least at times on the video signal" is known, and relied Potts as further evidence that that was the case. In the third full paragraph appellants clearly stated 'In addition, the

documents that are incorporated herein by reference include detailed discussion of determining the direction of an audio source depending on video signals. For example, in WO 99/60788 on page 8 "A moving speaker, such as one giving a presentation, can be tracked by tracking his image." Contrary to appellants' erroneous allegation, this clearly referred to Potts and does characterize the Potts reference as providing detailed discussion of determining the speaker at least at times on the video signal. Therefore, appellants clearly have made the admissions that the Potts reference as providing detailed discussion of determining the speaker at least at times on the video signal.

Appellants' remarks that the Examiner misconstrued the claim are erroneous and unfounded. The examiner states in the rejection 'Potts discloses a video conferencing system substantially as claimed, as acknowledged and admitted on page 7 second and third full paragraph of the remarks filed 2/26/04, except for the camera not being motionless during operation, e.g. Potts's camera does not have electronic pan, tilt, zoom (EPTZ).' As one reads the rejection one would clearly realize the rejection is read as follows: Potts discloses a video conferencing system substantially as claimed, [as acknowledged and admitted on page 7 second and third full paragraph of the remarks filed 2/26/04], except for the camera not being motionless during operation, e.g. Potts's camera does not have electronic pan, tilt, zoom (EPTZ); note the use of commas. Therefore, anyone reading the rejection would clearly understand the Examiner is referring to Potts' camera not being motionless during operation and not the claims "recite the camera not being motionless during operation".

Appellants' remark (page 11 of the brief) that "the Examiner's statements about pan, tilt, zoom cameras are completely irrelevant to Applicants' claims" clearly demonstrates that appellants' failed to understand and appreciate the rejection as set forth in the Final rejection. As stated in page 4, line 12 of appellants' specification video camera 210 is stationary, and in page 4 last line to page 5 line 1 appellants states "video conferencing system 100 can then electronically manipulate the video images to effectively pan, tilt, or zoom in or out, the video images from stationary camera 210", and further on page 5 lines 7-8 states "pointing stationary video camera 210 toward the speaker by electronically mimicking a panning or tilting operation of stationary camera 210" for example. Therefore, contrary to appellants' erroneous remark the examiner's statement about pan, tilt, zoom cameras are completely, extremely relevant and important to Applicants' claims. As clearly admitted by appellant in the 2/26/04 amendment page 7, lines 19-20, Potts differs from the claimed invention in not disclosing "a stationary image pickup device for generating image signals representative of an image" as claimed in amended claim 1. Baker and Malkin are cited and relied upon for their respective teachings of using electronic tilt, pan, zoom to replace mechanical pan, tilt, zoom cameras with camera that have electronic pan, tilt, zoom (EPTZ) to eliminate manual operation of the camera, improve reliability and reduce cost of the system, for example see Baker col. 7 lines 26-38; Malkin col. 1 lines 16-28, col. 2 line 16 to col. 3 line 6. Contrary to appellants' erroneous allegations, Baker and Malkin when combined with Potts as applied is clearly relevant to the claims and do render the claimed invention obvious under 35 USC 103(a).

In short, the Examiner has wholly read all the elements of claim 1 on the applied references; and made true and relevant statements about appellant's claims in support of the rejections; and further has complied with 37 CFR 1.104.

The examiner respectfully submit to the Board that appellants have failed to point out any supposed errors in the obviousness rejection as set forth in the Final rejection and the Board is respectfully requested to sustain the Examiner's rejection.

Claim 5

Appellants' remarks are not persuasive and misleading. Again appellants have failed to fully understand the rejection. The video conferencing system is taught by Potts. The examiner did not misconstrue the claim. In Potts as modified by Potts or Malkin the mechanical camera is replaced by a stationary motionless camera and the pan, tilt, zoom functions are performed electronically (see Baker col. 7 lines 26-38; Malkin col. 1 lines 16-28, col. 2 line 16 to col. 3 line 6 for example) by the video conferencing system in the same manner as disclosed in appellants' specification. The examiner also set forth rationales, reasons to use a stationary motionless camera to establish a prima facie case of obviousness.

Accordingly, as mentioned above, the references (Baker, Malkin) cited for electronic pan, tilt, zoom using stationary motionless camera are extremely relevant. The examiner through Baker or Malkin has completely and clearly indicated references that teaches and suggests pan, tilt, zoom functions being generating in a motionless image pickup device, a fact totally ignored by appellants. The examiner accordingly respectfully submits to the Board that the burden of making a prima facie case of

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obviousness against the claim has been met and the examiner respectfully submit to the Board that appellants have failed to point out any supposed errors in the obviousness rejection as set forth in the Final rejection and the Board is respectfully requested to sustain the Examiner's rejection.

Claims 2-4, 6-25

Note the audio source locator 10 in Potts, fig. 3 which shows an audio based locator 70, a video based locator 60 (computer vision person detection), microphone array (multimodal speaker detection system); fig. 1 clearly shows an integrated housing, etc.. Anyone reading the publication in order to understand Potts' invention would clearly be able to correlate Potts' elements to the claimed elements. As stated above, appellants have not previous raise any issue with the use of Potts throughout the prosecution history, it is view as a concession by appellants that Potts substantially teaches the claimed invention; and to raise the issue at appeal is moot. The examiner respectfully submit to the Board that appellants have failed to point out any supposed errors in the obviousness rejection as set forth in the Final rejection and the Board is respectfully requested to sustain the Examiner's rejection.


Conclusion

For the above reasons, the Examiner respectfully submits that a prima facie case of obviousness has been set forth in the Final Office action and appellants have failed to

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overcome any prima facie case of obviousness. Accordingly, it is believed that the Final rejection under 35 USC 1039a) is proper and the Board is therefore respectfully urged to sustained the Examiner's rejections.

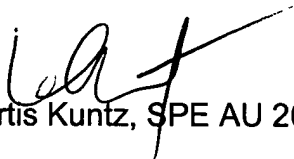
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May 25, 2005


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